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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,360

05/18/2006

Andrew C Patania

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EXAMINER

BOCHNA, DAVID

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,360	<b>Applicant(s)</b> PATANIA, ANDREW C	
	<b>Examiner</b> David E. Bochna	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Utterberg.

In regard to claims 1-2 and 11-12, Utterberg discloses a luer connector comprising:

a female fitting 5 having an open end including a bore 11 and an opening at the end of the bore, wherein the bore has a taper and the opening has a diameter D as specified in ISO International Standard 594 (bore of 11 accepts tip 310 of 300 and 300 is made to ISO 594 standards, see col. 4, lines 61-64); and

a male fitting 300 having a projection G with a tapered bore which fits within the bore of the female fitting, the male fitting further including a fluid passage which extends through the projection and has an effective inner diameter. Although Utterberg does not disclose the exact dimension of the inner diameter it is most likely at least .140 inches in diameter because the projection G is meant to be extended into the bore C' of 200 in fig. 3 and Utterberg states that C' is 5.1 mm or roughly .2 inches in diameter and the projection G has a reduced sidewall thickness (see col. 5, lines 48-50), which means that the inner diameter of projection G is probably also around .2 inches in diameter. However, even if G did not have an inner diameter of at least .140 inches or about 0.143 inch +/- 0.003 inches, it would have been obvious to one of ordinary skill in the art to change the size to reach the desired diameter because a change in the size of a prior

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art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

In regard to claim 3, wherein the male fitting 300 comprises a body which includes the projection G, the fluid passage extending through the body.

In regard to claim 4, further comprising an arrangement 300 (in fig. 6) which secures tubing to the male fitting.

In regard to claim 5, further comprising an interlock mechanism 320 which interlocks the male fitting and the female fitting 5.

In regard to claim 6, wherein the interlock mechanism 320 includes a mechanical coupling.

In regard to claim 7, wherein the projection of the male fitting has a taper which is substantially equal to the taper in the bore of the female fitting (see figs. 6-7).

In regard to claim 8, wherein the length of the projection G from the open end is less than about 0.295 inch (see col. 6, lines 30-31 where it says that M in fig. 7 is equal to 4 mm or roughly .16 inches).

In regard to claim 9, the length of the projection may be in the range from about 0.180 inch to about 0.190 inch, as M which is .16 inches, is slightly smaller than the length of G. However, even if not, it would have been obvious to one of ordinary skill in the art to change the size to reach the desired length because a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

In regard to claim 10, it is unclear what the outer diameter of the projection at the open end is, however it would have been obvious to make the opening less than about .170 inches because a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Utterberg in view of Ams et al. Utterberg discloses a luer connector and male fitting as described above, but does not disclose the use of the connector in an insufflation set. Ams et al. teaches that supplying insufflation sets with luer connectors (the T-piece) to connect adjoining components in a gas flow path is common and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to use the luer connector disclosed by Utterberg to join the various components in the gas flow path of an insufflation set.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bills '134, Bills '008, Jepson and Heflin et al. all disclose similar couplings common in the art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David E. Bochna/  
Primary Examiner, Art Unit 3679